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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/658,201	09/10/2003	Dierk Schroder	P23958	3231

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GREENBLUM & BERNSTEIN, P.L.C.  
1950 ROLAND CLARKE PLACE  
RESTON, VA 20191

EXAMINER

ROSENBERGER, RICHARD A

ART UNIT PAPER NUMBER

2877

DATE MAILED: 11/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/658,201

Applicant(s)

SCHRODER ET AL.

Examiner

Richard A. Rosenberger

Art Unit

2877

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 01 September 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1, 3, 9-27, 29, 31-40, 42-46 and 48-54 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 25-27, 29 and 31-39 is/are allowed.
- 6) ☒ Claim(s) 1, 3, 9-24, 40, 42-46, 48-54 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |                                                                                      |                                                                   |
|--------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____                                                          | 6) <input type="checkbox"/> Other: _____                          |

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1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 40, 42, 44-46, 48, 50 and 51 are rejected under 35 U.S.C. 102(b) as being anticipated by Laliotis (US 4,152,767).

As for claims 40 and 46, the reference shows a conveyor (220) for conveying a bar-shaped object (210) in a lengthwise axial manner. There is a measuring device (for example 100, 100') that measures a length and a diameter of the bar-shaped object. The claimed contains a language that the being transported and measured is "of the tobacco processing industry"; there is no structure or method steps which cause either the device or the method to be specifically adapted to the "tobacco processing industry", and thus this language is no more than a non-limiting statement of intended use.

As in claim 42 and 48, there is disclosed in Laliotis an embodiment, in column 8, lines 58-66 in which the length and the diameter are measured simultaneously. As in claims 44 and 50, in the length measurement of column 8, lines 68-62, the position of the both ends are concurrently detected to measure the length of the object.

As for claims 45 and 51, in figure 2B and column 9, lines 4-12, the Laliotis reference teaches detecting two orthogonal diameters of the object concurrently.

3. Claims 1, 43 and 49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Laliotis (US 4,152,767) in view of Jung (US 4,171,161).

As in claims 43 and 49, the Laliotis reference teaches that special light in g may be provided when it is useful to do so (see column 3, lines 41-43). It is known that in similar dimension measurements that back-lighting is useful, with the shadow of the object being detected for measurement; see, for instance, Jung. Using this known illumination scheme in the system of Laliotis for the "special lighting" that Laliotis teaches can be useful would have been obvious because it is a known, and known to be useful, manner of lighting objects for such dimension measurements.

As in claim 1, in the embodiment of Laliotis, column 8, lines 58-66, it would have been obvious to provide this back illumination with a single light source because this would aid in the provision of a suitable illumination field.

As in claim 3, the system of Laliotis could be scaled to be useful for a wide range of objects and object sized; those in the art would not have mistakenly believed that the system of Laliotis could no be so scaled, and would have found it obvious to use it for other types of objects, such as the filter bars.

As in claim 9, particularly in situations in which the diameter can be expected to vary along the length of the object, it would have been obvious to use the type of measurement shown in figure 12B of Laliotis to measure a plurality of diameters so that variation in diameters can be determined, including diakters in the end area, as in claim 16. As in claim 10, Laliotis teaches an embodiment in which the length and diameter can be measured simultaneously (see above).

Using the measurements to determine whether the object falls within predetermined measurement ranges is known, see Jung, and would have been obvious in order to obtain the known benefits of this comparison.

As in claims 14 and 15, Jung teaches signaling the presence of the object by means of a start signal triggered by a light barrier (50). It would have been obvious to use this known technique with the measurement of Lalotis because it is a known, and relatively simple, manner of triggering the measurement process.

As in claims 17 and 18, when in Lalotis the two ends are detected as in column 8, lines 61-66, there are at least two measuring points (one at each end) arranged to measure the length of the object. As in claim 19 and 20, the object clearly is, and is intended to be illuminated, and providing a light source for that illumination is provided by the Lalotis reference. The use of any known and appropriate light source, such as a laser (as in claim 21) would have been obvious. Dividing the beams as appropriate to direct the light in two dimensions as needed in the system of claim 2B of Lalotiw would have been obvious, as in claims 52-54. As in claims 22 and 23, any measurement in the Lalotis system will be inherently based upon the brightness profile detected by the sensor. As in claim 24, Lalotis includes a teaching of using line sensors (column 8, lines 67-68).

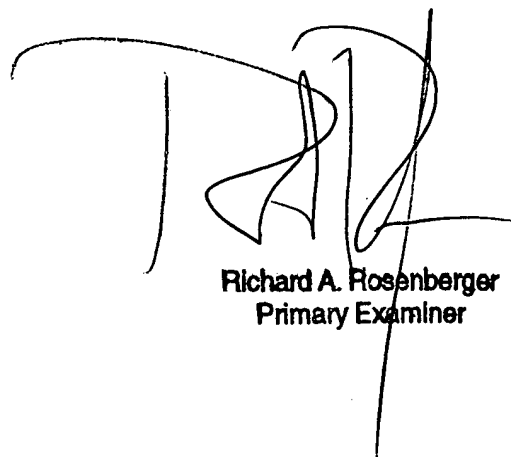
4. Claim 25 appears to be allowable; the art does not appear to teach the claimed argued braking and accelerating devices in the manner of claim 25. Thus claim 26, 27, 29, and 31-39 appear to be allowable for at least the reason of claim 25.

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5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Richard A Rosenberger whose telephone number is (571) 272-2428. The examiner can normally be reached on Monday through Friday during the hours of 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory J. Toatley, Jr. can be reached on (571) 272-2800 ext. 77. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

R. A. Rosenberger  
13 September 2006



Richard A. Rosenberger  
Primary Examiner